

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

<b>James Sampson, et al.,</b>	)	
	)	
<b>PLAINTIFFS</b>	)	<b>CASE NO. 1:17-cv-658</b>
	)	
<b>v.</b>	)	<b>Judge Michael R. Barrett</b>
	)	
<b>SunCoke Energy, Inc., et al.,</b>	)	
	)	
<b>DEFENDANTS</b>	)	

**PLAINTIFFS' COMBINED MOTION AND MEMORANDUM FOR LEAVE TO  
NOTIFY COURT OF MATERIAL DEVELOPMENTS REGARDING PLAINTIFFS'  
MOTION FOR PRELIMINARY INJUNCTION**

Pursuant to Fed. R. Civ. P. 7 and S.D. Ohio Civ. R. 7.2(a)(2), Plaintiffs respectfully move for leave to notify the Court of two developments that are material to Plaintiffs' Motion for Preliminary Injunction (Docs. 24, 32, and 46). First, leave is sought to provide declaration and photographic evidence that the conditions detailed by live, photographic, and video testimony admitted into evidence during the September 2018 Preliminary Injunction hearing have continued through the present. Second, the threat posed by those continuing nuisance conditions is even more acute in light of the COVID-19 pandemic because of the intertwined threats posed by the virus and PM 2.5 air pollution.

The declaration of Plaintiff Jim Sampson and the attached visual evidence demonstrate that air pollution from Defendants' coke plant continues to adversely impact the health and welfare of the Plaintiffs and the surrounding area and continues to deprive the Plaintiffs' of the use and quiet enjoyment of their homes. The sworn statement advises the Court that Mr. Sampson and his wife continue to suffer severe headaches and other adverse health impacts during and after continued exposure to air pollution from the Defendants' coke plant. Mr. Sampson remains apprehensive about

his health, in light of a restrictive airway diagnosis, and the health of his family who live on the property with him. Mr. Sampson's declaration, which Plaintiffs seek leave to file, is proposed Ex. 1.

Mr. Sampson's apprehension and the impacts of Defendants' pollution are even more pronounced as a result of COVID-19 and the stay at home order, which has further increased the time the Plaintiffs must remain at home and in close proximity to the coke plant and its pollution. The threat posed by the coronavirus is, according to a recent Harvard study, greater for those who have been exposed to elevated concentrations of PM 2.5, one of the key pollutants at issue in this case. The research paper discussing that study, which Plaintiffs seek leave to file, is proposed Ex. 2.

Plaintiffs request leave to provide this supplemental information because it is material to the Court's evaluation of Plaintiffs' Motion for a Preliminary Injunction, including determinations regarding threatened irreparable harm and the likelihood of success on Plaintiffs' nuisance claims.

Respectfully submitted,

s/ D. David Altman

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 14, 2020, I electronically filed a copy of the foregoing with the Clerk of the Court using the CM/ECF system. Notice of this filing will be sent to all parties in the case by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

s/ Robin A. Burgess

Robin A. Burgess  
*An Attorney for Plaintiffs*